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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,577	10/03/2000	Iwao Masuyama	723-939	5668
27562	7590	11/09/2007	EXAMINER	
NIXON & VANDERHYE, P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				LEIVA, FRANK M
ART UNIT		PAPER NUMBER		
		3714		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/677,577	MASUYAMA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Frank M. Leiva	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 August 2007.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-8,10-14,23-28,31-35 and 43-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 7,8,28,29,43 and 44 is/are allowed.
- 6) Claim(s) 2-6,10-14,23-27,31-35 and 45-58 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/24/2007</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2, 3, 5, 10, 12-14, 23, 24, 26, 31, 33-35, 45, 46, 48, 49, 51 and 53 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Elliott (US 2002/0077177 A1).**

3. **Regarding claims 2,23, 26 and 48; Elliott discloses:**

A game system having, in a related fashion, a game apparatus having a game program storage device storing a game program and including a character data storage section to display a moving character movable on a game space, a processing device for executing the game program, and a display device to display an image based on the result of processing by the processing device, comprising: a housing to be held by a player, (fig. 1a).

A change-state detecting device related to said housing for detecting at least one of an amount and a direction of a change applied to said housing, (¶[0051]), a joystick.

Wherein said game program storage device stores game space data including image data to display a space for game play, and a display control program causes said display device to display a game space based on the game space data;

Said game program storage device includes a character control program to read out a moving character stored in said character data storage section and

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enable control related to said at least one of a change amount and a change direction applied to said housing based on an output of said change-state detecting device such that a display state of the moving character changes; said change-state detecting device is to detect, as said at least one change amount and change direction, at least one of an amount and a direction of a tilt applied to said housing, and said character control program moves the moving character within the displayed game space at a moving speed related to the at least one of an amount and a direction of a tilt applied to said housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of tilt applied to the housing and continues to change position relative to the displayed game space based on the at least one of an amount and a direction of tilt applied to the housing even if the tilt is maintained at a constant tilted state, (¶[0051]).

4. **Regarding claims 3, 24, 46, 49, 51 and 53;** Elliott discloses: A game system having, in a related fashion, a game apparatus having a game program storage device storing a game program and including a character data storage section to display a moving character movable on a game space, a processing device for executing the game program, and a display device to display an image based on the result of processing by the processing device, comprising: a housing to be held by a player; and a change-state detecting device related to said housing for detecting at least one of an amount and a direction of a change applied to said housing, wherein said game program storage device stores game space data including image data to display a space for game play, and a display control program causes said display device to display a game space based on the game space data; said game program storage device includes a character control program to read out a moving character stored in said character data storage section and enable control related to said at least one of a change amount and a change direction applied to said housing based on an output of said change-state detecting device such that a display state of the moving character changes; said change-state detecting device detects, as said at least one change amount and

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change direction, at least one of an amount and a direction of a sliding movement applied to said housing, and said character control program moves the moving character within the displayed game space at a moving speed related to the at least one of an amount and a direction of a sliding movement applied to said housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of sliding movement applied to the housing, (¶[0051]), where by sliding the input device would be the mouse moved left and right.

5. **Regarding claims 5 and 45;** Elliott discloses wherein said change-state detecting device is for detecting both of said amount and direction of a change applied to said housing, and said character control program moves the moving character within the displayed game space at a moving speed related to both of an amount and a direction of tilt applied to said housing, (¶[0051]).

6. **Regarding claims 10 and 31;** Elliott discloses wherein said game program storage device further includes a non-player character data storage section to display a non-player character to make a first action on the game space according to a predetermined program irrespectively of an operation by the player, and said character control program provides control such that the non-player character makes a first action previously determined by a program when any of change states in amount and direction is not detected by said change-state detecting device, and such that the non-player character makes in addition to the first action a second action related to at least one of an amount and a direction of a change based on an output of said change-state detecting device when at least one of the change states in amount and direction is detected by said change-state detecting device, (fig. 1A), wherein Elliott's invention a character driven game is disclose, in fig. 1A the monitor depicts a Super Mario Bros character which is a game that contains enemy characters driven by the program to attack the player characters.

7. **Regarding claims 12 and 33;** Elliott discloses wherein the game space data includes space data to display a greater game space than a display area to be displayed

by said display device, the display control program including data to display on said display device image data of a part of the game space existing in a range of the display area of the game space, and a simulation program simulating a state of only the game space existing in the display area based on the at least one of an amount and a direction of a change in an output of said change-state detecting device, (fig. 1A), as stated above Elliott depicts as one of the game themes Super Mario Bros. Which is well known to show only a small portion of the entire virtual world at a time.

**8. Regarding claims 13 and 34;** Elliott discloses wherein said change-state detecting device detects as a change amount a moving amount of said housing and as a change direction a moving direction, the game space data including space data to display a game space greater than a display area of said display device, and the display control program displaying on said display device a space area of a part of a game space corresponding to the display area, and gradually moving the display area of the game space in the moving direction by an area corresponding to the moving amount according to a movement of said housing, (¶[0051]).

**9. Regarding claims 14 and 35;** Elliott discloses wherein said game apparatus has operating device to be operated by a player on one main surface of said housing, and said character control enabling control based on a detection output of said change-state detecting device and an operating state of said operating device, (¶[0051]).

**10. Claims 4, 25, 47, 50, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott in view of Nomi et al (US 7,070,500B1) herein after Nomi.**

**11. Regarding claim 4, 25, 47, 50, 52 and 54;** Elliott discloses: A game system having, in a related fashion, a game apparatus having a game program storage device storing a game program and including a character data storage section to display a moving character movable on a game space, a processing device for executing the game program, and a display device to display an image based on the result of processing by

the processing device, comprising: a housing to be held by a player; and a change-state detecting device related to said housing for detecting at least one of an amount and a direction of a change applied to said housing, wherein said game program storage device stores game space data including image data to display a space for game play, and a display control program causes said display device to display a game space based on the game space data; said game program storage device includes a character control program to read out a moving character stored in said character data storage section and enable control related to said at least one of a change amount and a change direction applied to said housing based on an output of said change-state detecting device such that a display state of the moving character changes, (¶[0051]). Elliott fails to disclose the use of acceleration and impact sensors but does state “a wide range of other conventional user input devices” which means that if the game required the use of impact sensors it would simply get one of a number of them as taught by Nomi. Nomi discloses: said change-state detecting device detects, as said at least one change amount and change direction, at least one of an amount and a direction of an impact applied to said housing, and said character control program moves the moving character within the displayed game space at a moving speed related to the at least one of an amount and a direction of an impact applied to said housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of impact applied to the housing, (col. 4:47-51).

12. **Regarding claims 4, 25, 47, 50, 52 and 54;** it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the impact sensor of Nomi since it already states that it could use any existing input device. This combination is not novel but the simple incorporation of a known device creating a predictable result.

13. **Claims 6 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott as applied to claim 2 above, and further in view of Lands (US 6,201,554).**

14. **Regarding claims 6 and 27; Elliott discloses** the limitation of claim 2 which claim 6 depends on but fails to mention a portable housing. Lands discloses wherein said housing is a housing of said game apparatus, and said game apparatus being a portable game apparatus having said display device provided integrally on one main surface of said housing, (abstract and fig. 1). It would be obvious to one of ordinary skill in the art at the time of the invention to incorporate and make portable the game of Elliott and program it in the housing of Lands. This feature is not novel but the simple application of well-known techniques that would yield predictable results.

15. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott as applied to claim 2 above, and further in view of Nishiumi et al (US 6,001,015).**

16. **Regarding claims 11 and 32; Elliott discloses:** incorporation on application 08/719,019, (¶[0051]), now patent number 6,001,015. Nishiumi discloses: wherein the game space data including data to display a particular area defined such that, when the moving character moves within the game space, the moving character is different in action from that in another area, said character control program controlling a display state of the moving character related to the at least one of an amount and a direction of a change applied to said housing based on an output of said change-state detecting device, and display-controlling, when the moving character moves within the game space, the moving character being different in action from that in another area, (col. 2:62 - 3:10). This feature needs no motivation to combined since is already incorporated by reference in Elliott's invention.

17. **Claims 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott, Nomi, Lands and Nishiumi as applied to claims 2, 3, 23 and 24 above, and further in view of Official Notice.**

18. **Regarding claims 55-58;** wherein the character control program moves the moving character so that the moving character collides with another object in the virtual game space, the references of Elliott, Nomi, Lands, and Nishiumi do not teach the action of collisions of the character players, yet the examiner takes Official Notice that character collisions with one another and with the surrounding virtual space are well known in the art at the time of the invention.

#### ***Allowable Subject Matter***

19. **Claims 7-8, 28-29, and 43-44 are allowed.**

20. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record including the newly cited art of Elliott, Nomi, Lands and Nishiumi fail to incorporate the change state detector along with game program storage means into a detachable cartridge.

#### ***Response to Arguments***

21. Applicant's arguments with respect to claims 2-6, 10-14, 23-27, 31-35, and 45-58 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

10/30/2007



Robert E Pezzuto

Supervisory Patent Examiner

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